

A bill for an act

relating to higher education; authorizing data matching; modifying institution eligibility; establishing award procedures; establishing scholarship priorities; establishing powers and duties; providing for refunds; defining terms; making technical corrections; amending Minnesota Statutes 2008, sections 136A.101, subdivision 10; 136A.126, subdivision 1, by adding a subdivision; 136A.127, subdivision 6, by adding subdivisions; 136A.15, subdivision 6; 136A.16, subdivision 14; 136A.62, subdivision 3; 136A.645; 136A.646; 136A.65, by adding a subdivision; 141.25, subdivisions 7, 13, by adding a subdivision; 141.251, subdivision 2; 141.28, subdivision 2; Minnesota Statutes 2009 Supplement, sections 136A.01, subdivision 2; 136A.101, subdivision 4; 136A.127, subdivisions 2, 4, 9; 299A.45, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 136A.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2009 Supplement, section 136A.01, subdivision 2, is amended to read:

Subd. 2. **Responsibilities.** (a) The Minnesota Office of Higher Education is responsible for:

(1) necessary state level administration of financial aid programs, including accounting, auditing, and disbursing state and federal financial aid funds, and reporting on financial aid programs to the governor and the legislature;

(2) approval, registration, licensing, and financial aid eligibility of private collegiate and career schools, under sections 136A.61 to 136A.71 and chapter 141;

(3) negotiating and administering reciprocity agreements;

(4) publishing and distributing financial aid information and materials, and other information and materials under section 136A.87, to students and parents;

(5) collecting and maintaining student enrollment and financial aid data and reporting data on students and postsecondary institutions to develop and implement a process to measure and report on the effectiveness of postsecondary institutions;

(6) administering the federal programs that affect students and institutions on a statewide basis; and

(7) prescribing policies, procedures, and rules under chapter 14 necessary to administer the programs under its supervision.

(b) The office is authorized to match individual student data from the student record enrollment database with individual student financial aid data collected and maintained by the office in order to audit or evaluate federal or state supported education programs as permitted by United States Code, title 20, section 1232g(b)(3), and Code of Federal Regulations, title 34, section 99.35. The office shall conduct the study in a manner that does not permit personal identification of parents or students by individuals other than representatives of the office.

Sec. 2. Minnesota Statutes 2009 Supplement, section 136A.101, subdivision 4, is amended to read:

Subd. 4. **Eligible institution.** "Eligible institution" means ~~a postsecondary educational institution located in this state or in a state with which the office has entered into a higher education reciprocity agreement on state student aid programs that (1) is operated by this state or the Board of Regents of the University of Minnesota, or (2) is operated privately and, as determined by the office, meets all of the following: (i) maintains academic standards substantially equivalent to those of comparable institutions operated in this state; (ii) is licensed or registered as a postsecondary institution by the office or another state agency; and (iii) by July 1, 2013, is participating in the federal Pell Grant program under Title IV of the Higher Education Act of 1965, as amended.~~ an institution that meets the eligibility requirements under section 136A.103.

Sec. 3. Minnesota Statutes 2008, section 136A.101, subdivision 10, is amended to read:

Subd. 10. **Satisfactory academic progress.** "Satisfactory academic progress" means ~~that~~ the student is meeting satisfactory academic progress requirements used for federal student financial aid programs, as defined under Code of Federal Regulations, title 34, sections 668.16(e), 668.32(f), and 668.34.

~~(1) by the end of a student's second academic year of attendance at an institution, the student has at least a cumulative grade point average of C or its equivalent, or academic standing consistent with the institution's graduation requirements; and~~

~~(2) by the end of the first term of the third and fourth academic year of attendance,
the student has a cumulative grade point average of at least a C or its equivalent.~~

Sec. 4. **[136A.103] INSTITUTION ELIGIBILITY REQUIREMENTS.**

(a) An institution is eligible for purposes of state student aid if the institution is a postsecondary educational institution located in this state or in a state with which the office has entered into a higher education reciprocity agreement on state student aid programs that:

(1) is operated by this state or the Board of Regents of the University of Minnesota;
or

(2) is operated privately and, as determined by the office, meets the requirements of paragraph (b).

(b) A private institution must:

(1) maintain academic standards substantially equivalent to those of comparable institutions operated in this state;

(2) be licensed or registered as a postsecondary institution by the office; and

(3)(i) by July 1, 2010, participate in the federal Pell Grant program under Title IV of the Higher Education Act of 1965, as amended; or

(ii) if an institution was participating in state student aid programs as of June 30, 2010, and the institution does not participate in the federal Pell Grant program by June 30, 2010, the institution must require every student who enrolls to sign a disclosure form, provided by the office, stating that the institution is not participating in the federal Pell Grant program.

(c) An institution that offers only graduate-level degrees or graduate-level nondegree programs, or that offers only degrees or programs that do not meet the required minimum program length to participate in the federal Pell Grant program, is an eligible institution if the institution is licensed or registered as a postsecondary institution by the office.

(d) An eligible institution under paragraph (b), clause (3), item (ii), that changes ownership as defined in section 136A.63, subdivision 2, must participate in the federal Pell Grant program within three calendar years of the ownership change to continue eligibility. An institution may appeal for a one-year extension of eligibility if it has begun but not completed the process of being eligible to participate in the Pell Grant program within the required three years. The institution must appeal to the office, documenting the reasons for the delay.

(e) An institution that loses its eligibility for the federal Pell Grant program is not an eligible institution.

Sec. 5. Minnesota Statutes 2008, section 136A.126, subdivision 1, is amended to read:

Subdivision 1. **Student eligibility.** The director of the Office of Higher Education shall establish procedures for the distribution of scholarships to a Minnesota resident student as defined under section 136A.101, subdivision 8, who:

(1) is of one-fourth or more Indian ancestry;

(2) has applied for other existing state and federal scholarship and grant programs;

(3) is meeting satisfactory academic progress as defined under section 136A.101, subdivision 10;

(4) is not in default, as defined by the office, of a federal or state student educational loan;

(5) if enrolled in an undergraduate program, is eligible or would be eligible to receive a federal Pell Grant or a state grant based on the federal needs analysis and is enrolled for nine semester credits per term or more, or the equivalent;

~~(4)~~ (6) if enrolled in a graduate program, demonstrates a remaining financial need in the award amount calculation and is enrolled, per term, on a half-time basis or more as defined by the postsecondary institution; and

~~(5)~~ (7) in the opinion of the director of the Office of Higher Education, based upon postsecondary institution recommendations, has the capabilities to benefit from further education.

Sec. 6. Minnesota Statutes 2008, section 136A.126, is amended by adding a subdivision to read:

Subd. 5. **Awarding procedure.** (a) Complete applications are ranked in order of completion date. If there are multiple applications with identical completion dates, those applications are further sorted by application receipt date.

(b) Awards are made to eligible students until the appropriation is expended.

(c) Once funds are committed, remaining applicants are placed on a waiting list in order of application completion date.

Sec. 7. Minnesota Statutes 2009 Supplement, section 136A.127, subdivision 2, is amended to read:

Subd. 2. **Definition; qualifying program.** For the purposes of this section, a "qualifying program" means a rigorous secondary school program of study defined by ~~the Department of Education under agreement with the Secretary of Education for the purposes of determining eligibility for the federal Academic Competitiveness Grant Program under Title IV of the Higher Education Act of 1965, as amended~~ the office with consultation

from the Department of Education and others, as needed. If a qualifying program includes a foreign language requirement, the foreign language requirement is waived for a student whose first language is not English and who attains English language proficiency.

Sec. 8. Minnesota Statutes 2009 Supplement, section 136A.127, subdivision 4, is amended to read:

Subd. 4. **Student eligibility.** To be eligible to receive a scholarship under this section, in addition to the requirements listed under section 136A.121, a student must:

(1) submit a Free Application for Federal Student Aid (FAFSA);

(2) complete a qualifying program in a high school or in a home-school setting under section 120A.22, graduate from a Minnesota high school, and graduate with an unweighted grade point average of 2.5 or higher;

(3) qualify for a federal Pell Grant or state grant under section 136A.121;

(4) be a United States citizen or eligible noncitizen, as defined in section 484 of the Higher Education Act, United States Code, title 20, sections 1091 et seq., as amended, and Code of Federal Regulations, title 34, section 668.33;

(5) meet satisfactory academic progress as defined under section 136A.101, subdivision 10;

(6) be a Minnesota resident, as defined in section 136A.101, subdivision 8; and

~~(6)~~ (7) enroll full-time in a degree, diploma, or certificate program during the academic year immediately following high school graduation at an eligible institution as defined under section 136A.101, subdivision 4.

Sec. 9. Minnesota Statutes 2008, section 136A.127, subdivision 6, is amended to read:

Subd. 6. **Application.** A student must complete and submit ~~an~~ a complete application for the achieve scholarship. An institution may submit a complete application for the achieve scholarship on behalf of a student enrolled at its institution using procedures developed by the office.

Sec. 10. Minnesota Statutes 2008, section 136A.127, is amended by adding a subdivision to read:

Subd. 6a. **Complete application.** A complete application for the achieve scholarship includes:

(1) an achieve scholarship application; and

(2) documentation of the qualifying program.

Sec. 11. Minnesota Statutes 2009 Supplement, section 136A.127, subdivision 9, is amended to read:

Subd. 9. **Scholarship awards.** The amount of the scholarship is equal to the maximum assigned student responsibility for a four-year program, as defined in section 136A.121, subdivision 5, minus the assigned family responsibility as defined in section 136A.101, subdivision 5a, multiplied by 0.50. The minimum scholarship is \$1,200 per academic year based on the institution's academic calendar and the student's continued eligibility and available appropriations. Awards are subject to student priority under subdivision 9d. The scholarship may be used to pay for qualifying expenses at eligible institutions.

Sec. 12. Minnesota Statutes 2008, section 136A.127, is amended by adding a subdivision to read:

Subd. 9c. **Insufficient appropriation.** If the amount appropriated is determined by the office to be insufficient to make full awards to applicants under subdivision 9, awards may be reduced by one or more of the following:

- (1) a percentage reduction in the maximum award;
- (2) a dollar amount reduction in the minimum award; or
- (3) adding a surcharge to the applicant's assigned family responsibility, as defined in section 136A.101, subdivision 5a.

Sec. 13. Minnesota Statutes 2008, section 136A.127, is amended by adding a subdivision to read:

Subd. 9d. **Student priority.** Achieve scholarship awards must be made to students with complete applications received as of August 31 of each respective fiscal year.

Sec. 14. Minnesota Statutes 2008, section 136A.15, subdivision 6, is amended to read:

Subd. 6. **Eligible institution.** "Eligible institution" means ~~a postsecondary educational institution that (1) is operated or regulated by this state or the Board of Regents of the University of Minnesota; (2) is operated publicly or privately in another state, is approved by the United States Secretary of Education, and, as determined by the office, maintains academic standards substantially equal to those of comparable institutions operated in this state; (3) is licensed or registered as a postsecondary institution by the office or another state agency; and (4) by July 1, 2011, is participating in the federal Pell Grant program under Title IV of the Higher Education Act of 1965, as amended. It also~~

~~includes any institution chartered in a province.~~ an institution that meets the eligibility requirements under section 136A.155.

Sec. 15. **[136A.155] ADDITIONAL INSTITUTION ELIGIBILITY REQUIREMENTS.**

An institution is eligible for purposes of sections 136A.15 to 136A.1702, if the institution is a postsecondary educational institution that:

- (1) meets the eligibility requirements under section 136A.103; or
- (2) is operated publicly or privately in another state, is approved by the United States Secretary of Education, and, as determined by the office, maintains academic standards substantially equal to those of comparable institutions operated in this state.

Sec. 16. Minnesota Statutes 2008, section 136A.16, subdivision 14, is amended to read:

Subd. 14. **Notes.** The office may sell at public or private sale, at the price or prices determined by the office, any note or other instrument or obligation evidencing or securing a loan made by the office or its predecessor, including the Minnesota Higher Education Coordinating Board and the Minnesota Higher Education Services Office.

Sec. 17. Minnesota Statutes 2008, section 136A.62, subdivision 3, is amended to read:

Subd. 3. **School.** "School" means:

(1) any partnership, company, firm, society, trust, association, corporation, or any combination thereof, which (i) is, owns, or operates a private, nonprofit postsecondary education institution; (ii) is, owns, or operates a private, for-profit postsecondary education institution; or (iii) provides a postsecondary instructional program or course leading to a degree whether or not for profit;

(2) any public or private postsecondary educational institution located in another state or country which offers or makes available to a Minnesota resident any course, program or educational activity which does not require the leaving of the state for its completion; or

(3) any individual, entity, or postsecondary institution located in another state that contracts with any school located within the state of Minnesota for the purpose of providing educational programs, training programs, or awarding postsecondary credits or continuing education credits to Minnesota residents that may be applied to a degree program.

Sec. 18. Minnesota Statutes 2008, section 136A.645, is amended to read:

136A.645 SCHOOL CLOSURE.

(a) When a school decides to cease postsecondary education operations, it must cooperate with the office in assisting students to find alternative means to complete their studies with a minimum of disruption, and inform the office of the following:

- (1) the planned date for termination of postsecondary education operations;
- (2) the planned date for the transfer of the student records;
- (3) confirmation of the name and address of the organization to receive and hold the student records; and
- (4) the official at the organization receiving the student records who is designated to provide official copies of records or transcripts upon request.

(b) Upon notice from a school of its intention to cease operations, the office shall notify the school of the date on which it must cease the enrollment of students and all postsecondary educational operations.

(c) For the purposes of this section, a school is considered closed when the school:

- (1) has an unscheduled nonemergency closure or cancellation of classes for more than 24 hours without prior notice to the office;
- (2) announces it is closed or closing; or
- (3) files for bankruptcy.

Sec. 19. Minnesota Statutes 2008, section 136A.646, is amended to read:

136A.646 ADDITIONAL SECURITY.

(a) In the event any registered institution is notified by the United States Department of Education that it has fallen below minimum financial standards and that its continued participation in Title IV will be conditioned upon its satisfying either the Zone Alternative, Code of Federal Regulations, title 34, section 668.175, paragraph (f), or a Letter of Credit Alternative, Code of Federal Regulations, title 34, section 668.175, paragraph (c), the institution shall provide a surety bond conditioned upon the faithful performance of all contracts and agreements with students in a sum equal to the "letter of credit" required by the United States Department of Education in the Letter of Credit Alternative, but in no event shall such bond be less than \$10,000 nor more than \$250,000.

(b) In lieu of a bond, the applicant may deposit with the commissioner of finance:

- (1) a sum equal to the amount of the required surety bond in cash; or
- (2) securities, as may be legally purchased by savings banks or for trust funds, in an aggregate market value equal to the amount of the required surety bond.

9.1 Sec. 20. Minnesota Statutes 2008, section 136A.65, is amended by adding a
9.2 subdivision to read:

9.3 Subd. 9. **Powers and duties.** (a) The office has the following powers and duties:

9.4 (1) to negotiate and enter into interstate reciprocity agreements with similar agencies
9.5 in other states, if in the judgment of the office an agreement is or will be helpful in
9.6 effectuating the purposes of the Minnesota Private and Out-of-State Public Postsecondary
9.7 Education Act; and

9.8 (2) to grant conditional or provisional registration for periods of less than one year,
9.9 if in the judgment of the office correctable deficiencies exist at the time of application and
9.10 when refusal to register a school would adversely affect currently enrolled students.

9.11 (b) The office may, upon its own motion, and must, upon the verified complaint
9.12 in writing of any person setting forth fact which, if proved, would constitute grounds
9.13 for refusal or revocation of private institution registration, investigate the actions
9.14 of any applicant or any person or persons holding or claiming to be registered as a
9.15 private institution. However, before proceeding to a hearing on the question of whether
9.16 registration shall be refused, revoked, or suspended for any cause enumerated herein, the
9.17 office shall grant a reasonable time to the registered institution to correct the situation.
9.18 If within such time the situation is corrected and the school is in compliance with the
9.19 provisions of this private institution registration, no further action leading to refusal,
9.20 revocation, or suspension shall be taken.

9.21 Sec. 21. Minnesota Statutes 2008, section 141.25, is amended by adding a subdivision
9.22 to read:

9.23 Subd. 2a. **Refunds.** If a contract is deemed unenforceable under subdivision 2, a
9.24 school must refund tuition, fees, and other charges received from a student or on behalf
9.25 of a student within 30 days of receiving written notification and demand for refund from
9.26 the Minnesota Office of Higher Education.

9.27 Sec. 22. Minnesota Statutes 2008, section 141.25, subdivision 7, is amended to read:

9.28 Subd. 7. **Minimum standards.** A license shall be issued if the office first
9.29 determines:

9.30 (1) that the applicant has a sound financial condition with sufficient resources
9.31 available to:

9.32 (i) meet the school's financial obligations;

(ii) refund all tuition and other charges, within a reasonable period of time, in the event of dissolution of the school or in the event of any justifiable claims for refund against the school by the student body;

(iii) provide adequate service to its students and prospective students; and

(iv) maintain and support the school;

(2) that the applicant has satisfactory facilities with sufficient tools and equipment and the necessary number of work stations to prepare adequately the students currently enrolled, and those proposed to be enrolled;

(3) that the applicant employs a sufficient number of qualified teaching personnel to provide the educational programs contemplated;

(4) that the school has an organizational framework with administrative and instructional personnel to provide the programs and services it intends to offer;

(5) that the premises and conditions under which the students work and study are sanitary, healthful, and safe, ~~according to modern standards;~~

(6) that the quality and content of each occupational course or program of study provides education and adequate preparation to enrolled students for entry level positions in the occupation for which prepared;

(7) that the living quarters which are owned, maintained, recommended, or approved by the applicant for students are sanitary and safe;

(8) that the contract or enrollment agreement used by the school complies with the provisions in section 141.265;

(9) that contracts and agreements do not contain a wage assignment provision or a confession of judgment clause; and

(10) that there has been no adjudication of fraud or misrepresentation in any criminal, civil, or administrative proceeding in any jurisdiction against the school or its owner, officers, agents, or sponsoring organization.

Sec. 23. Minnesota Statutes 2008, section 141.25, subdivision 13, is amended to read:

Subd. 13. **Schools licensed by another state agency or board.** A school required to obtain a private career school license due to the use of "academy," "institute," "college," or "university" in its name or licensed for the purpose of participating in state financial aid under chapter 136A, and which is also licensed by another state agency or board shall be required to satisfy only the requirements of subdivisions 3, clauses (1), (2), (3), (5), (7), and (10); 4; 5, paragraph (b), clause (2); 7, clauses (1) and (10); 8; 9, clause (13); and 12.

Sec. 24. Minnesota Statutes 2008, section 141.251, subdivision 2, is amended to read:

11.1 Subd. 2. **Conditions.** The office shall adopt rules establishing the conditions for
11.2 renewal of a license. The conditions shall permit two levels of renewal based on the record
11.3 of the school. A school that has demonstrated the quality of its program and operation
11.4 through longevity and performance in the state may renew its license based on a relaxed
11.5 standard of scrutiny. A school that has been in operation in Minnesota for a limited period
11.6 of time or that has not performed adequately on performance indicators shall renew its
11.7 license based on a strict standard of scrutiny. The office shall specify minimum longevity
11.8 standards and performance indicators that must be met before a school may be permitted
11.9 to operate under the relaxed standard of scrutiny. The performance indicators used in this
11.10 determination shall include, but not be limited to: ~~degree granting status~~, regional or
11.11 national accreditation, loan default rates, placement rate of graduates, student withdrawal
11.12 rates, audit results, student complaints, and school status with the United States
11.13 Department of Education. Schools that meet the requirements established in rule shall be
11.14 required to submit a full relicensure report once every four years, and in the interim years
11.15 will be exempt from the requirements of section 141.25, subdivision 3, clauses (4), (5),
11.16 and (8), and Minnesota Rules, parts 4880.1700, subpart 6; and 4880.2100, subpart 4.

11.17 Sec. 25. Minnesota Statutes 2008, section 141.28, subdivision 2, is amended to read:

11.18 Subd. 2. **Unlawful designation.** No school organized after November 15, 1969,
11.19 shall apply to itself either as a part of its name or in any other manner the designation of
11.20 "college" or "university" ~~unless such school applies for and receives certification from the~~
11.21 ~~office that it meets appropriate standards and is entitled to such designation.~~ Operating
11.22 schools now using such designation may continue use thereof.

11.23 Sec. 26. Minnesota Statutes 2009 Supplement, section 299A.45, subdivision 1, is
11.24 amended to read:

11.25 Subdivision 1. **Eligibility.** A person is eligible to receive educational benefits under
11.26 this section if the person:

11.27 (1) is certified under section 299A.44 and in compliance with this section and rules
11.28 of the commissioner of public safety and the Minnesota Office of Higher Education;

11.29 (2) is enrolled in an undergraduate degree or certificate program after June 30, 1990,
11.30 at an eligible Minnesota institution as provided in section 136A.101, subdivision 4;

11.31 (3) has not received a baccalaureate degree or been enrolled full time for ~~nine~~ ten
11.32 semesters or the equivalent, except that a student who withdraws from enrollment for
11.33 active military service is entitled to an additional semester or the equivalent of eligibility;
11.34 and

- 12.1 (4) is related in one of the following ways to a public safety officer killed in the
12.2 line of duty on or after January 1, 1973:
- 12.3 (i) as a dependent child less than 23 years of age;
- 12.4 (ii) as a surviving spouse; or
- 12.5 (iii) as a dependent child less than 30 years of age who has served on active military
12.6 duty 181 consecutive days or more and has been honorably discharged or released to the
12.7 dependent child's reserve or National Guard unit.